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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

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DIAMOND G RODEOS., INC, a Utah  
Corporation; STEVE GILBERT, an  
individual; and CYNDI GILBERT, an  
individual,

Plaintiffs,

v.

BRIAN JAMES GIFFORD, an individual;  
and DOES 1-10,

Defendants.

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AND RELATED COUNTERCLAIMS

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**MEMORANDUM DECISION AND  
ORDER ADOPTING REPORT AND  
RECOMMENDATION**

Case No. 4:22-cv-00089-DN-PK

District Judge David Nuffer  
Magistrate Judge Paul Kohler

The Report and Recommendation<sup>1</sup> issued by United States Magistrate Judge Paul Kohler on May 6, 2024, recommends that Plaintiff's Motion for Terminating Sanctions ("Motion")<sup>2</sup> be granted and that default judgment be entered against Defendant Brian Gifford ("Gifford"), Gifford's counterclaims be dismissed, and Gifford pay Plaintiffs' costs and fees incurred related to the Motion.

The parties were notified of their right to file objections to the Report and Recommendation within 14 days of its service pursuant to [28 U.S.C. § 636](#) and [Fed. R. Civ. P. 72](#). Gifford made no timely substantive objection to the Report and Recommendation, which ordered an objection be filed within fourteen days.<sup>3</sup> Gifford filed a set of documents on June 12,

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<sup>1</sup> Report & Recommendation, [docket no. 62](#), filed May 6, 2024.

<sup>2</sup> [Docket no. 59](#), filed April 22, 2024.

<sup>3</sup> Report and Recommendation at 9.

2024 (“June 12 Documents”).<sup>4</sup> The June 12 documents are nonsensical and nonresponsive. On July 5, 2024, Gifford filed a transcript from a state criminal case without explanation or legal argument (“Transcript”).<sup>5</sup> The June 12 Documents and the Transcript do not constitute an objection to the Report and Recommendation. Gifford also did not attend the hearing Judge Kohler held on the Motion on May 2, 2024,<sup>6</sup> and did not file a substantive response to the Motion.<sup>7</sup> The Report and Recommendation and record have been carefully examined, and found consistent with the history of this case and with the applicable law. Therefore, the analysis and conclusion of the Magistrate Judge are accepted without exception and the Report and Recommendation<sup>8</sup> is adopted in its entirety.

### ORDER

IT IS HEREBY ORDERED that the Report and Recommendation<sup>9</sup> is ADOPTED and Default Judgment is entered:

- a. against Defendant Gifford on Plaintiffs’ claims;
- b. dismissing Mr. Gifford’s counterclaims; and
- c. ordering Mr. Gifford pay Plaintiffs’ costs and fees incurred in preparing their motion for sanctions.

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<sup>4</sup> [Docket no. 64](#), filed June 12, 2024.

<sup>5</sup> [Docket no. 65](#), filed July 5, 2024.

<sup>6</sup> Docket no. 63, Minute Entry Motion Hearing held on May 2, 2024 before Magistrate Judge Paul Kohler, filed May 2, 2024.

<sup>7</sup> See [docket no. 61](#), filed April 29, 2024 (containing no substantive response beyond a statement that Gifford had provided all the discovery he had).

<sup>8</sup> Report & Recommendation, [docket no. 62](#), filed May 6, 2024.

<sup>9</sup> *Id.*

IT IS FURTHER ORDERED that within 28 days, Plaintiffs Diamond G Rodeos, Inc., Steve Gilbert, and Cyndi Gilbert, shall file a motion for entry of judgment providing relief consistent with items a-f of paragraph 56 of the Complaint.<sup>10</sup> The motion shall be accompanied by:

- a. proof which supports the relief sought;
- b. a draft order for entry of judgment granting the motion; and
- c. a draft judgment.

Copies of the draft documents b. and c. in Word format shall be emailed to

[dj.nuffer@utd.uscourts.gov](mailto:dj.nuffer@utd.uscourts.gov).

IT IS FURTHER ORDERED that all future deadlines and hearing dates in this case are STRICKEN.

Signed October 3, 2024.

BY THE COURT



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David Nuffer  
United States District Judge

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<sup>10</sup> [Docket no. 1](#), filed November 18, 2022.